

House File 2135 - Introduced

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BY M. SMITH

A BILL FOR

1 An Act expanding the newborn safe haven Act to infants one year
2 of age or younger.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.2, subsection 6, paragraph q, Code
2 2011, is amended to read as follows:

3 q. Who is a ~~newborn~~ an infant whose parent has voluntarily
4 released custody of the child in accordance with chapter 233.

5 Sec. 2. Section 232.111, subsection 2, paragraph a,
6 subparagraph (3), Code 2011, is amended to read as follows:

7 (3) The child is less than twelve months of age and has been
8 judicially determined to have been abandoned or the child is a
9 ~~newborn~~ an infant whose parent has voluntarily released custody
10 of the child in accordance with chapter 233.

11 Sec. 3. Section 232.116, subsection 1, paragraph c, Code
12 Supplement 2011, is amended to read as follows:

13 c. The court finds that there is clear and convincing
14 evidence that the child is a ~~newborn~~ an infant whose parent has
15 voluntarily released custody of the child in accordance with
16 chapter 233.

17 Sec. 4. Section 232.117, subsection 10, Code 2011, is
18 amended to read as follows:

19 10. If a termination of parental rights order is issued on
20 the grounds that the child is a ~~newborn~~ an infant whose parent
21 has voluntarily released custody of the child in accordance
22 with chapter 233 under section 232.116, subsection 1, paragraph
23 "c", the court shall retain jurisdiction to change a guardian
24 or custodian and to allow a parent whose rights have been
25 terminated to request vacation or appeal of the termination
26 order which request must be made within thirty days of issuance
27 of the granting of the termination order. The period for
28 request for vacation or appeal by a parent whose rights have
29 been terminated shall not be waived or extended and a vacation
30 or appeal shall not be granted for a request made after the
31 expiration of this period. The court shall grant the vacation
32 request only if it is in the best interest of the child. The
33 supreme court shall prescribe rules to establish the period of
34 thirty days, which shall not be waived or extended, in which a
35 parent whose parental rights have been terminated may request a

1 vacation or appeal of such a termination order.

2 Sec. 5. Section 233.1, Code 2011, is amended to read as
3 follows:

4 **233.1 ~~Newborn~~ Infant safe haven Act — definitions.**

5 1. This chapter may be cited as the ~~"Newborn~~ "Infant Safe
6 Haven Act".

7 2. For the purposes of this chapter, unless the context
8 otherwise requires:

9 a. "Infant" means a child who is, or who appears to be, one
10 year of age or younger.

11 ~~a.~~ b. "Institutional health facility" means a hospital
12 as defined in section 135B.1, including a facility providing
13 medical or health services that is open twenty-four hours per
14 day, seven days per week and is a hospital emergency room or a
15 health care facility as defined in section 135C.1.

16 ~~b. "Newborn infant" means a child who is, or who appears to~~
17 ~~be, fourteen days of age or younger.~~

18 Sec. 6. Section 233.2, Code 2011, is amended to read as
19 follows:

20 **233.2 ~~Newborn infant~~ Infant custody release procedures.**

21 1. A parent of a ~~newborn~~ an infant may voluntarily release
22 custody of the ~~newborn~~ infant by relinquishing physical custody
23 of the ~~newborn~~ infant, without expressing an intent to again
24 assume physical custody, at an institutional health facility or
25 by authorizing another person to relinquish physical custody
26 on the parent's behalf. If physical custody of the ~~newborn~~
27 infant is not relinquished directly to an individual on duty
28 at the institutional health facility, the parent may take
29 other actions to be reasonably sure that an individual on
30 duty is aware that the ~~newborn~~ infant has been left at the
31 institutional health facility. The actions may include but are
32 not limited to making telephone contact with the institutional
33 health facility or a 911 service. For the purposes of this
34 chapter and for any judicial proceedings associated with the
35 ~~newborn~~ infant, a rebuttable presumption arises that the

1 person who relinquishes physical custody at an institutional
2 health facility in accordance with this section is the ~~newborn~~
3 infant's parent or has relinquished physical custody with the
4 parent's authorization.

5 2. a. Unless the parent or other person relinquishing
6 physical custody of a ~~newborn~~ an infant clearly expresses
7 an intent to return to again assume physical custody of the
8 ~~newborn~~ infant, an individual on duty at the facility at
9 which physical custody of the ~~newborn~~ infant was relinquished
10 pursuant to subsection 1 shall take physical custody of the
11 ~~newborn~~ infant. The individual on duty may request the parent
12 or other person to provide the name of the parent or parents
13 and information on the medical history of the ~~newborn~~ infant
14 and the ~~newborn~~ infant's parent or parents. However, the
15 parent or other person is not required to provide the names or
16 medical history information to comply with this section. The
17 individual on duty may perform reasonable acts necessary to
18 protect the physical health or safety of the ~~newborn~~ infant.
19 The individual on duty and the institutional health facility in
20 which the individual was on duty are immune from criminal or
21 civil liability for any acts or omissions made in good faith to
22 comply with this section.

23 b. If the physical custody of the ~~newborn~~ infant is
24 relinquished at an institutional health facility, the state
25 shall reimburse the institutional health facility for the
26 institutional health facility's actual expenses in providing
27 care to the ~~newborn~~ infant and in performing acts necessary to
28 protect the physical health or safety of the ~~newborn~~ infant.
29 The reimbursement shall be paid from moneys appropriated for
30 this purpose to the department of human services.

31 c. If the name of the parent is unknown to the institutional
32 health facility and it is reasonable to assume that a
33 certificate of birth has not been filed for the infant,
34 the individual on duty or other person designated by the
35 institutional health facility at which physical custody of the

1 ~~newborn~~ infant was relinquished shall submit the certificate
2 of birth report as required pursuant to section 144.14. If
3 the name of the parent is disclosed to the institutional
4 health facility, the facility shall submit the certificate
5 of birth report as required pursuant to section 144.13. The
6 department of public health shall not file the certificate of
7 birth with the county of birth and shall otherwise maintain the
8 confidentiality of the birth certificate in accordance with
9 section 144.43.

10 3. As soon as possible after the individual on duty
11 assumes physical custody of a ~~newborn~~ an infant released under
12 subsection 1, the individual shall notify the department of
13 human services and the department shall take the actions
14 necessary to assume the care, control, and custody of the
15 ~~newborn~~ infant. The department shall immediately notify the
16 juvenile court and the county attorney of the department's
17 action and the circumstances surrounding the action and
18 request an ex parte order from the juvenile court ordering,
19 in accordance with the requirements of section 232.78, the
20 department to take custody of the ~~newborn~~ infant. Upon
21 receiving the order, the department shall take custody of the
22 ~~newborn~~ infant. Within twenty-four hours of taking custody of
23 the ~~newborn~~ infant, the department shall notify the juvenile
24 court and the county attorney in writing of the department's
25 action and the circumstances surrounding the action.

26 4. a. Upon being notified in writing by the department
27 under subsection 3, the county attorney shall file a
28 petition alleging the ~~newborn~~ infant to be a child in need of
29 assistance in accordance with section 232.87 and a petition
30 for termination of parental rights with respect to the ~~newborn~~
31 infant in accordance with section 232.111, subsection 2,
32 paragraph "a". A hearing on a child in need of assistance
33 petition filed pursuant to this subsection shall be held at
34 the earliest practicable time. A hearing on a termination of
35 parental rights petition filed pursuant to this subsection

1 shall be held no later than thirty days after the day the
2 physical custody of the ~~newborn child~~ infant was relinquished
3 in accordance with subsection 1 unless the juvenile court
4 continues the hearing beyond the thirty days for good cause
5 shown.

6 *b.* Notice of a petition filed pursuant to this subsection
7 shall be provided to any known parent and others in accordance
8 with the provisions of chapter 232 and shall be served upon any
9 putative father registered with the state registrar of vital
10 statistics pursuant to section 144.12A. In addition, prior to
11 holding a termination of parental rights hearing with respect
12 to the ~~newborn~~ infant, notice by publication shall be provided
13 as described in section 600A.6, subsection 5.

14 5. Reasonable efforts, as defined in section 232.102, that
15 are made in regard to the ~~newborn~~ infant shall be limited to
16 the efforts made in a timely manner to finalize a permanency
17 plan for the ~~newborn~~ infant.

18 6. An individual on duty at an institutional health facility
19 who assumes custody of a ~~newborn~~ an infant upon the release of
20 the ~~newborn~~ infant under subsection 1 shall be provided notice
21 of any hearing held concerning the ~~newborn~~ infant at the same
22 time notice is provided to other parties to the hearing and the
23 individual may provide testimony at the hearing.

24 Sec. 7. Section 233.3, Code 2011, is amended to read as
25 follows:

26 **233.3 Immunity.**

27 Any person authorized by the parent to assist with release
28 of custody in accordance with section 233.2 by relinquishing
29 physical custody of the ~~newborn~~ infant or to otherwise act on
30 the parent's behalf is immune from criminal prosecution for
31 abandonment or neglect of the ~~newborn~~ infant under section
32 726.3 or 726.6 and civil liability for any reasonable acts or
33 omissions made in good faith in assisting with the release.

34 Sec. 8. Section 233.4, Code 2011, is amended to read as
35 follows:

1 **233.4 Rights of parents.**

2 Either parent of a ~~newborn~~ an infant whose custody was
3 released in accordance with section 233.2 may intervene in the
4 child in need of assistance or termination of parental rights
5 proceedings held regarding the ~~newborn~~ infant and request that
6 the juvenile court grant custody of the ~~newborn~~ infant to
7 the parent. The requester must show by clear and convincing
8 evidence that the requester is the parent of the ~~newborn~~
9 infant. If the court determines that the requester is the
10 parent of the ~~newborn~~ infant and that granting custody of the
11 ~~newborn~~ infant to the parent is in the ~~newborn~~ infant's best
12 interest, the court shall issue an order granting custody of
13 the ~~newborn~~ infant to the parent. In addition to such order,
14 the court may order services for the ~~newborn~~ infant and the
15 parent as are in the best interest of the ~~newborn~~ infant.

16 Sec. 9. Section 233.5, subsections 1 and 2, Code 2011, are
17 amended to read as follows:

18 1. In addition to any other privacy protection established
19 in law, a record that is developed, acquired, or held in
20 connection with an individual's ~~good-faith~~ good-faith effort
21 to voluntarily release a ~~newborn~~ an infant in accordance with
22 this chapter and any identifying information concerning the
23 individual shall be kept confidential. Such record shall not
24 be inspected or the contents disclosed except as provided in
25 this section.

26 2. A record described in subsection 1 may be inspected and
27 the contents disclosed without court order to the following:

28 *a.* The court and professional court staff, including
29 juvenile court officers.

30 *b.* The ~~newborn~~ infant and the ~~newborn~~ infant's counsel.

31 *c.* The ~~newborn~~ infant's parent, guardian, custodian, and
32 those persons' counsel.

33 *d.* The ~~newborn~~ infant's court appointed special advocate and
34 guardian ad litem.

35 *e.* The county attorney and the county attorney's assistants.

1 *f.* An agency, association, facility, or institution which
2 has custody of the ~~newborn~~ infant, or is legally responsible
3 for the care, treatment, or supervision of the ~~newborn~~ infant.

4 *g.* The ~~newborn~~ infant's foster parent or an individual
5 providing preadoptive care to the ~~newborn~~ infant.

6 Sec. 10. Section 233.6, Code 2011, is amended to read as
7 follows:

8 **233.6 Educational and public information.**

9 The department of human services, in consultation with the
10 Iowa department of public health and the department of justice,
11 shall develop and distribute the following:

12 1. An information card or other publication for
13 distribution by an institutional health facility to a parent
14 who releases custody of a ~~newborn~~ an infant in accordance with
15 this chapter. The publication shall inform the parent of a
16 parent's rights under section 233.4, explain the request for
17 medical history information under section 233.2, subsection
18 2, and provide other information deemed pertinent by the
19 departments.

20 2. Educational materials, public information announcements,
21 and other resources to develop awareness of the availability
22 of the ~~newborn~~ infant safe haven Act among adolescents, young
23 parents, and others who might avail themselves of this chapter.

24 3. Signage that may be used to identify the institutional
25 health facilities at which physical custody of a ~~newborn~~ an
26 infant may be relinquished in accordance with this chapter.

27 Sec. 11. Section 726.3, Code 2011, is amended to read as
28 follows:

29 **726.3 Neglect or abandonment of a dependent person.**

30 A person who is the father, mother, or some other person
31 having custody of a child, or of any other person who by
32 reason of mental or physical disability is not able to care
33 for the person's self, who knowingly or recklessly exposes
34 such person to a hazard or danger against which such person
35 cannot reasonably be expected to protect such person's self or

1 who deserts or abandons such person, knowing or having reason
2 to believe that the person will be exposed to such hazard or
3 danger, commits a class "C" felony. However, a parent or
4 person authorized by the parent shall not be prosecuted for a
5 violation of this section involving abandonment of a ~~newborn~~ an
6 infant, if the parent or the person authorized by the parent
7 has voluntarily released custody of the ~~newborn~~ infant in
8 accordance with section 233.2.

9 Sec. 12. Section 726.6, subsection 2, Code 2011, is amended
10 to read as follows:

11 2. A parent or person authorized by the parent shall not
12 be prosecuted for a violation of subsection 1, paragraph "f",
13 relating to abandonment, if the parent or person authorized by
14 the parent has voluntarily released custody of a ~~newborn~~ an
15 infant in accordance with section 233.2.

16 EXPLANATION

17 This bill expands the newborn safe haven Act established
18 in Code chapter 233 to include a child who is, or who appears
19 to be, one year of age or younger. Current law extends the
20 provisions of the Act to only a newborn infant who is defined
21 as a child who is, or who appears to be, 14 days of age or
22 younger.